

LIMITING LIABILITY OF FAIRS AND EVENTS



Who are we dealing with?

- Participants
- Vendors
- Service Providers
- Sponsors & Co-sponsors

Each need to be handled differently

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Participants

- Persons showing up to the event, but are not renting space or providing a service

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Participants

- Most events will qualify as “recreation” so you will have recreation immunities available... as long as you don’t charge admission
 - Consider posting recreation immunity act notice at entrances
 - For equine events, use equine immunity required signage

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Participants

- Limit paying Participant liability by using Waivers
 - On admission ticket
 - Other written agreements (entry forms)

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Waivers

- In exchange for being allowed to participate, you agree not to sue us for any injuries or damage to property you sustain related to the event
- Waiver must be signed by party that would have a claim against you

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Waivers

- Minors cannot sign, and parents cannot sign on their behalf,
 - but parents can waive their rights related to injury to their children

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Waivers

- Best when waivers refer to inherent risks of event that the person will be exposed to
- Cannot ask employees or volunteers to waive right to workers compensation or protection for liability claims

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Vendors

- Businesses that want to use your space or at your event to conduct business
- Should have a written space lease agreement to trigger contractual liability coverage from their insurer (Covered Party Contract)

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Vendors

- Limit Vendor liability using indemnification and insurance requirements in the written space lease agreement

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Vendor Indemnification

- You will reimburse us if we get sued for something you did
- What the courts will require them to reimburse you for needs to be clear in the contract

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Vendor Indemnification

- This obligation has nothing to do with insurance at this point
- This obligation should stand on its own, regardless of compliance with insurance provisions

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Vendor Insurance Requirements

- Insurance requirements are simply providing some level of assurance that the vendor can make good on their obligation to indemnify
- Requirements should be based on the risk level of the Vendor's activities (Special Events Risk Matrix)

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Vendor Insurance Requirements

- Requirements should address all risks the vendor will need to indemnify you for (i.e. If they will have a bounce house, make sure that is not excluded in their policy)
- Clarify that compliance with insurance requirements does not waive or limit indemnification obligation

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Vendor Insurance Requirements

- Requirements should be shown as “Minimum” coverage and limits (they should want to have higher limits than you require to protect themselves)

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Vendor Additional Insured Status

- Vendor’s insurer puts you on the policy as an Additional Insured for activities of their primary insured
- TULIP policies and many Special Event policies will automatically name you Additional Insured

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Vendor Additional Insured Status

- Insurer is still only obligated to pay for items clearly identified in the indemnification section of the written agreement
- Now the lawsuit filed against you will go to the Vendor's insurer instead of UCIP

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Vendor Additional Insured Status

- Review Additional Insured requirements with your attorney

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Vendor Certificates of Insurance

- Evidence provided by Vendor's insurance agent of the policies in place at the time the certificate is issued
- Certificate does not change the terms of the policies in any way

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Vendor Certificates of Insurance

- Look for exclusions and limitations to activities that the vendor will conduct
- Review of certificate may lead you to ask for copies of policies, so be sure to address this in the written agreement

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Service Providers

- Businesses that are providing you services during the event
- Should be dealt with like all other service providers (Bidding, contracts...)

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Service Providers

- The Service Provider holds themselves out as an expert in these services, so they should take responsibility for any claims arising from the work they perform, or actions of their employees
- Limit Service Provider liability using indemnification and insurance requirements in the service contract

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Service Provider Indemnification

- You will reimburse us if we get sued for something you did
- What the courts will require them to reimburse you for needs to be clear in the contract (Covered Party Contract)

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Service Provider Insurance Requirements

- Insurance requirements are simply providing some level of assurance that the Service Provider can make good on their obligation to indemnify
- Requirements should be based on the risk level of the Service Provider's activities (Service Provider Risk Matrix)

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Service Provider Insurance Requirements

- Requirements should address all risks the Service Provider will need to indemnify you for (i.e. If they are collecting payments using credit cards, they need to have Cyber Liability Insurance and Crime Insurance)

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Service Provider Insurance Requirements

- Clarify that compliance with insurance requirements does not waive or limit indemnification obligation
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Sponsors & Co-sponsors

- Who are these people and what are they doing?
- If they are just providing funding in exchange for recognition as a sponsor, you should not need to require indemnification or insurance

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Sponsors & Co-sponsors

- You may ask for waivers from sponsors, but this would be a policy question for your governing body
- If a "Sponsor" is conducting or coordinating activities at the event, they should be treated as a Vendor or Service Provider

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When you are a Sponsor or Co-sponsor

- What exactly are you doing?
- Coverage for the event should come from the primary organization planning and coordinating the event

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When you are a Sponsor or Co-sponsor

- If you are simply providing funding, and not conducting any activities at the event, you should not have to provide the coverage for the event

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